

REMARKS

Reconsideration and further examination of the subject patent application in light of the present Amendment and Remarks is respectfully requested.

Claims 1-22 are currently pending in the application. Claims 1-22 stand rejected.

Rejections Under 35 U.S.C. §112

Claims 2-12 and 17 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite. Applicant respectfully traverses this rejection.

The Examiner asserts that “Claims 2-4, 10-12 are inconsistent . . . The base claims states that customer data is released to the vendor in summary form . . . yet claims 2-4 and 10-12 appear to describe only the embodiment where promotional material is accomplished via the POS” (Office Action of 12/18/06, page 4). In response, the limitation has been deleted.

The Examiner asserts that “Claims 9, 17 are apparatus claims, yet they are presented with limitations that appear to be method steps rather than structure, rendering the claims scope unclear” (Office Action of 12/18/06, page 4). In response, the limitation has been deleted.

Rejections Under 35 U.S.C. §102

Claims 1-5, 8-13, 16-19 and 22 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. Appl. No. US 2003/0018613 to Oytac. Applicant respectfully traverses this rejection.

In response, independent claim 1 has been further limited to a third-party tax record database “where the database also determines a tax due on previous purchases made by potential customers.” Support for the further limitation may be found on page 6, lines 12-21 of prior U.S. Pat. Appl. No. 09/679,083 incorporated by reference on page 3, lines 12-21 of the specification. It should also be noted that the paragraph on page 3, lines 12-21 of the specification has been amended to incorporate the additional claim limitation. Independent claims 9 and 17 have been similarly limited.

Independent claims 1, 9 and 17 are now limited to a purpose-built tax database that is adapted for another purpose. As described in U.S. Pat. Appl. No. 09/679,083, a tax database is a system that receives information from buyers and sellers and that independently determines a tax from the context of the sale.

As well known to those of skill in the art, the IRS has traditionally imposed the burden of tax calculation on the seller. As such, credit card companies and database operators have not performed such calculations, in part, because it has not been previously necessary and also because of a perceived liability from sellers.

In general, credit card databases cannot provide a comprehensive record of customer purchases because customers may not use the same credit card for all purchases. In contrast, the system of U.S. Pat. Appl. No. 09/679,083 incorporates payment based “upon open account, credit card, debit card . . . Payment may also be made by check or cash” (U.S. Pat. Appl. No. 09/679,083, page 3).

In addition, a credit card database would have no reason to collect the detailed product information necessary to calculate tax rates. Accordingly, a credit card database would not be able to provide the granularity of detail in matching customer profiles as would be provided by a tax database. As such, the claimed tax database provides a different functionality because it is able to provide better customer matches and also because it is able to capture customer information under any form of payment.

The claimed invention is now limited to “a third-party tax database . . . where the third-party database also determines a tax due on previous purchases made by customers.” Since Oytac does not use a tax database, Oytac does not do the same thing in the same way and could provide the same result as that of the claimed invention. Since Oytac does not do the same or any similar thing as that of the claimed invention, the rejections are now improper and should be withdrawn.

Rejections under 35 U.S.C. §103

Claims 7, 15, 21 stand rejected under 35 U.S.C. §103(a) as being obvious over Oytac in view of U.S. Pat. Appl. No. US 2002/0077901 to Katz. Applicant respectfully traverses this rejection.

It may be noted in this regard, that Katz (as with Oytac) fails to provide any teaching or suggestion of tax database as a source of customer information. Since the combination of Oytac and Katz fails to teach or suggest this claim element, the combination fails to teach or suggest each and every claim

limitation. Since the combination fails to teach or suggest each and every claim limitation the rejections are improper and should be withdrawn.

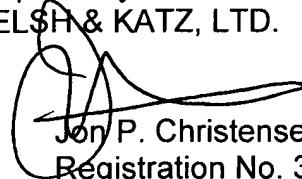
Closing Remarks

For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Primary Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the Primary Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,
WELSH & KATZ, LTD.

By



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